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OFFICE OF PETITIONS

In re Application of :
Gebhardt, et al. :
Application No. 09/333,724 :
Filed: June 15, 1999 :
Attorney Docket No. 2050.007US1 :
ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 10, 2006

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 12, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the above-identified application became abandoned on November 13, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner argues that the August 12, 2005 Office action was improperly mailed to the prior address of record, due to the fact that petitioner had filed a "NOTIFICATION OF CHANGE OF CORRESPONDENCE ADDRESS" on April 7, 2005. However, there is no indication in the file that the person signing that change of correspondence address, Russel D. Slifer (Reg. No. 39,838), was empowered with a power of attorney to prosecute the application. As set forth in 37 CFR 1.33, once an oath or declaration has been filed, the only parties entitled to change the correspondence address are: (1) a registered patent attorney or agent of record; (2) as assignee as provided for under 37 CFR 3.71(b); or (3) all of the applicants for patent.

It was not until a revocation of power of attorney was filed by the assignee on January 11, 2006 that the correspondence address was properly changed to the above address of record.

Petitioner may wish to consider reviving the abandoned application pursuant to 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions